IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.5116 of 2008
ASHA KUMARI
Versus
STATE OF BIHAR
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3 9/5/2008 Heard counsel for the petitioner and counsel for the State.

Petitioner is an accused in a case under section 302/34 of the Indian Penal Code. Counsel for the petitioner submits that the case as developed by the prosecution is one of circumstantial evidence as no one had seen how the deceased had been done to death and at best the prosecution can establish its case that the deceased was seen last with the accused persons. Learned counsel for the petitioner, however, submits that no one in the case diary has even stated this much that this lady accused had been seen last with the deceased. He however submits that the petitioner is in jail since 30.3.2006 and thus considering the provision of section 437 of the Cr.P.C. this Court should grant bail to the petitioner.

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However, counsel for the state submits that there were strong motive for the petitioner to get the deceased done to death, and therefore, if other have said that the petitioner was following one Mantu Sah after some time and therefore if ultimately the dead body was recovered, the complicity of the petitioner cannot be ruled out.

Having taken into consideration the aforementioned submission, this Court is of the

view that in this case charges have been framed but no any witness has been examined in this case and in near future there is no chance to conclude the trial. As such the petitioner, who is woman is entitled for protection under section 437 of he Cr.P.C.

Considering that the petitioner, namely, Asha Kumari is a lady and is in custody since two years, she is directed to be released on bail on furnishing bail bond of Rs. 10,000/- ( Ten thousand) with two sureties of the like amount each to the satisfaction of Ist Additional Sessions Judge, Vaishali at Hajipur in Sessions Trial No. 388 of 2007 arising out of Bidupur P.S. Case No. 311 of 2003. It is made clear that one of the bailer must be either son or her close family member.

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( Mihir Kumar Jha, J,)

Abhay Kumar.

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